

KANSAS ADMINISTRATIVE REGULATIONS
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
RULES AND REGULATIONS FOR CERTIFICATION OF NURSE AIDES

28-39-164. Definitions. (a) "Adult care home" means any facility that meets the definition specified in K.A.R. 28-39-144.

(b) "Clinical instruction" means training in which the trainee demonstrates knowledge and skills while performing tasks on an individual under the direct supervision of the course instructor. Clinical instruction may be performed in any of the following settings:

- (1) An adult care home;
 - (2) a long-term care unit of a hospital; or
 - (3) a simulated laboratory.
- (c) "Department" means Kansas department of health and environment.

(d) "Direct care" means assistance provided in activities of daily living. These activities shall include grooming, eating, toileting, transferring, and ambulation.

(e) "Direct supervision" means that the supervisor is on the facility premises and is readily accessible for one-on-one consultation, instruction, and assistance, as needed.

(f) "Eligible for employment," when describing a certified nurse aide, means that the certified nurse aide meets the following criteria:

(1) Has been employed to perform nursing or nursing-related services for at least eight hours in the preceding 24 months;

(2) has no record of abuse, neglect, and exploitation; and

(3) is not prohibited from employment based upon criminal convictions pursuant to K.S.A. 39-970, and amendments thereto.

(g) "Instructor" means an individual who has been approved by the secretary to teach nurse aide, home health aide, or medication aide training courses.

(h) "Licensed nursing experience" means experience as a registered nurse or licensed practical nurse.

(i) "Nurse aide trainee I" means an individual in the process of completing part I of a 90-hour nurse aide course as specified in K.A.R. 28-39-165.

(j) "Nurse aide trainee II" means an individual who has successfully completed part I of a 90-hour nurse aide course specified in K.A.R. 28-39-165 or whose training has been endorsed as specified in K.A.R. 28-39-167.

(k) "Secretary" means secretary of the Kansas department of health and environment.

(l) "Simulated laboratory" means an enclosed area that is in a school, institution, adult care home, or other facility and that is similar to an adult care home residential room. In a simulated laboratory, trainees practice and demonstrate basic nurse aide skills while an instructor observes and evaluates the trainees.

(Authorized by K.S.A. 2008 Supp. 39-925(d)(2); implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009.)

28-39-165. Nurse aide training program. (a) Requirements. Unlicensed employees who provide direct individual care to residents shall be required to perform the following:

(1) Successfully complete at least a 90-hour nurse aide course that has been approved by the secretary; and

(2) pass a state test as specified in K.A.R. 28-39-168.

(b) Certification. Each person shall be issued a nurse aide certificate by the secretary and shall be listed on a public registry upon completion of the requirements specified in subsection (a).

(c) Employment as a trainee.

(1) Each nurse aide trainee I in an approved 90-hour course shall be required to successfully complete part I of the course to demonstrate initial competency before being employed or used as a nurse aide trainee II. A nurse aide trainee II may provide direct care to residents only under the direct supervision of a registered nurse or licensed practical nurse.

(2) Each nurse aide trainee II in an approved 90-hour course shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in subsection (a), within four months from the beginning date of the initial course in order to continue employment providing direct care. Nurse aide trainee II status for employment shall be for one four-month period only.

(d) 90-hour nurse aide course.

(1) Each nurse aide course shall be prepared and administered in accordance with the guidelines established by the department in the "Kansas certified nurse aide curriculum guidelines (90 hours)," including the appendices, dated May 2008, and the "Kansas 90-hour certified nurse aide sponsor and instructor manual," pages 1 through 20 and the appendices, dated May 2008, which are

hereby adopted by reference.

(2) Each nurse aide course shall consist of a combination of didactic and clinical instruction. At least 50 percent of part I and part II of the course curriculum shall be provided as clinical instruction.

(3) Each nurse aide course shall be sponsored by one of the following:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a postsecondary school under the jurisdiction of the state board of regents.

(4) Clinical instruction shall be conducted in one or a combination of the following locations:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a simulated laboratory.

(5) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the medicare certification regulations listed in 42 C.F.R. 483.151(b)(2), as in effect on October 1, 2007.

(e) Correspondence courses. No correspondence course shall be approved as a nurse aide course.

(f) Other offerings. Distance-learning offerings and computer-based educational offerings shall meet the standards specified in subsection (d).

(Authorized by K.S.A. 2008 Supp. 39-925(d)(2); implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009.)

28-39-166. Nurse aide course instructor. (a) Approval and qualifications.

(1) Each person who intends to be a course instructor shall submit a completed instructor approval application form to the department at least three weeks before offering an initial course and shall receive approval as an instructor before the first day of an initial course.

(2) Each course instructor shall be a registered nurse with a minimum of two years of licensed nursing experience, with at least 1,750 hours of experience in either or a combination of an adult care home or long-term care unit of a hospital. Each course instructor shall have completed a

course in teaching adults, shall have completed a professional continuing education offering on supervision or adult education, or shall have experience in teaching adults or supervising nurse aides.

(b) Course instructor and course sponsor responsibilities.

(1) Each course instructor and course sponsor shall be responsible for ensuring that the following requirements are met:

(A) A completed course approval application form shall be submitted to the department at least three weeks before offering a course. Approval shall be obtained from the secretary at the beginning of each course whether the course is being offered initially or after a previous approval. Each change in course location, schedule, or instructor shall require approval by the secretary.

(B) All course objectives shall be accomplished.

(C) Only persons in health professions having the appropriate skills and knowledge shall be selected to conduct any part of the training. Each person shall have at least one year of experience in the subject area in which that person is providing training.

(D) Each person providing a part of the training shall do so only under the direct supervision of the course instructor.

(E) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be limited to clinical experiences that are for the purpose of learning nursing skills under the direct supervision of the course instructor.

(F) When providing clinical instruction, the course instructor shall perform no other duties but the direct supervision of the nurse aide trainees.

(G) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I task checklist before the checklist is signed and dated by the course instructor as evidence of successful completion of part I of the course.

(H) The course shall be prepared and administered in accordance with the guidelines in the "Kansas certified nurse aide curriculum guidelines (90 hours)" and the "Kansas 90-hour certified nurse aide sponsor and instructor manual," as adopted in K.A.R. 28-39-165.

(2) Any course instructor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(Authorized by K.S.A. 2008 Supp. 39-925(d)(2); implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009.)

28-39-167. Out-of-state and allied health training endorsement for nurse aide. (a) Each person whom the secretary has determined to have successfully completed training or passed a test, or both, that is equivalent to the training or test required by this state may be employed without taking this state's test.

(b) Each person whom the secretary has determined not to be exempt from examination pursuant to subsection (a) but who meets any one of the following requirements shall be deemed to have met the requirements specified in K.A.R. 28-39-165 if that person passes a state test as specified in K.A.R. 28-39-168:

(1) Each person who has received nurse aide training in another state, is listed on another state's registry as a nurse aide, and is eligible for employment as a nurse aide shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168. Each person whose training in another state is endorsed and who has passed the state test shall be issued a nurse aide certificate.

(2) Each person who meets any of the following criteria shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168:

(A) Has completed training deemed equivalent to the requirements specified in K.A.R. 28-39-165;

(B) is currently licensed in Kansas or another state to practice as a registered nurse, licensed practical nurse, or licensed mental health technician, with a license that has not been suspended or revoked; or

(C) has a license to practice as a registered nurse, licensed practical nurse, or licensed mental health technician that has expired within the 24-month period before applying for equivalency, but has not been suspended or revoked.

(3) Each person who has received training from an accredited nursing or mental health technician training program within the 24-month period before applying for equivalency and whose training included a basic skills component comprised of personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168.

(c) Each person qualified under subsection (a) shall receive written notification from the department of exemption from the requirement to take this state's test and the fact that the person is eligible for employment.

(d) Each person qualified under subsection (b) shall receive written approval from the department or its designated agent to take the state test. Upon receiving written approval from the department or its designated agent to take the state test, that person may be employed by an adult

care home as a nurse aide trainee II to provide direct care under the direct supervision of a registered nurse or licensed practical nurse. Each person employed as a nurse aide trainee II shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in K.A.R. 28-39-165, within one four-month period starting from the date of approval, in order to continue employment providing direct care.

(Authorized by K.S.A. 2008 Supp. 39-925(d)(2); implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009.)

28-39-168. State nurse aide test. (a) Composition of state nurse aide test. The state test shall be comprised of 100 multiple-choice questions. A score of 75 percent or higher shall constitute a passing score.

(b) State nurse aide test eligibility.

(1) Only persons who have successfully completed an approved 90-hour nurse aide course or completed education or training that has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 shall be allowed to take the state test.

(2) Each person shall have a maximum of three attempts within 12 months from the beginning date of the course to pass the state test after completing an approved 90-hour course as specified in K.A.R. 28-39-165.

(3) If the person does not pass the state test within 12 months after the starting date of taking an approved 90-hour course, the person shall retake the entire course.

(4) If a person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 and the person does not pass the state test on the first attempt, the person shall successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 28-39-165 to retake the state test. Each person whose training was endorsed or deemed equivalent, who failed the state test, and who has successfully completed an approved nurse aide course shall be eligible to take the test three times within a year after the beginning date of the course.

(c) Application fee.

(1) Each nurse aide trainee shall pay a nonrefundable application fee of \$20.00 before taking the state test. A nonrefundable application fee shall be required each time the test is scheduled to be taken. Each person who is scheduled to take the state test, but fails to take the state test, shall submit another fee before being scheduled for another opportunity to take the test.

(2) Each course instructor shall collect the application fee for each nurse aide candidate eligible to take the state test and shall submit the fees, class roster, application forms, and accommodation request forms to the department or its designated agent.

(d) Each person who is eligible to take the state test and who has submitted the application fee and application form shall be issued written approval, which shall be proof of eligibility to sit for the test.

(e) Test accommodation.

(1) Any reasonable test accommodation or auxiliary aid to address a disability may be requested by any person who is eligible to take the state test. Each request for reasonable accommodation or auxiliary aid shall be submitted each time a candidate is scheduled to take the test.

(2) Each person requesting a test accommodation shall submit an accommodation request form along with an application form to the instructor. The instructor shall forward these forms to the department or its designated agent at least three weeks before the desired test date. Each instructor shall verify the need for the accommodation by signing the accommodation request form.

(3) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.

(f) This regulation shall not apply to any person who meets the requirement of K.A.R. 28-39-167(a).

(Authorized by K.S.A. 2008 Supp. 39-925(d)(2) and 39-936; implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009.)